REMARKS

Favorable reconsideration of this application is requested in view of the following remarks.

Non-elected claims 11-15 have been canceled without prejudice.

Claim 1 has been amended to include the limitations of original claim 4 and further supported by the specification at page 14, line 16 – page 15, line 13, page 15, line 25 – page 16, line 4, and glucose sensor (4) in example 2 in the specification at page 29, lines 11-12 and table 2 on page 30. Accordingly, claim 4 has been canceled without prejudice.

Claims 1, 5, 7, 16, and 22 have been amended editorially to avoid confusion between the terms "region" and "part" by replacing the term "region" with "surface".

Claim 16 has been amended editorially and further supported by the specification at page 21, line 20 – page 22, line 8, page 24, lines 3-13, glucose sensors (2)-(3) in example 1 in the specification at page 25, line 10 – page 26, line 3 and table 1 on page 26, and glucose sensors (5)-(6) in example 2 in the specification at page 29, lines 24-27 and table 2 on page 30.

Claims 1-3, 5-10, 16-17, and 19-24 have been rejected under 35 U.S.C. 102(b) as being anticipated by Watanabe et al. (Japanese Patent Application Publication No. 2002-333420). Applicants respectfully traverse this rejection.

Applicants note that the English equivalent of the Watanabe reference is U.S. Patent Application Publication No. 2002/0134676, and hereinafter the referenced portion of the Watanabe reference is that of the English equivalent.

Claim 1 includes the limitation of original claim 4, and thus, the rejection of claim 1 is moot.

Like claim 1, claim 16 recites the color-developing reagent in the reagent. Watanabe neither discloses inclusion of the color-developing reagent in the biosensor nor an analysis by colorimetry. Thus, claim 16 is distinguished from Watanabe.

In addition, claim 16 recites the facing distance between the reagent retaining surface and the facing surface of no greater than 150 μm. By limiting the face distance to no greater than 150 μm, the diffusion length of components included in the reagent such as the color-developing reagent is limited to such a short distance with respect to the height direction of the capillary. Due to such short distance of diffusion, the diffusion can occur quickly, and concentrations of the reagent components can become uniform in that direction within a short time (see page 21, line 11 – page 22, line 25 of the specification). Accordingly, with the analyzing tool of claim 16, the color is produced and measured by colorimetry within a short time, and the entire analysis time is shortened (see *id.* and Figs. 18B, 18C, 19B, and 19C comparing with Fig. 18A of the specification). Watanabe fails to disclose an analyzing tool including the color-developing reagent, and thus the reference does not recognize the advantages of the short height of the capillary such as the shortened analysis time by colorimetry with an analyzing tool having the facing distance of no greater than150 μm. Thus, claim 16 is further distinguished from Watanabe.

Accordingly, the rejections of claim 1 and claims 2-3 and 5-10, which ultimately depend from claim 1, and of claim 16 and claims 17 and 19-24, which ultimately depend from claim 16, should be withdrawn.

Claim 18 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Watanabe et al. (Japanese Patent Application Publication No. 2002-333420). Applicants respectfully traverse this rejection.

Claim 18, which ultimately depends from claim 16, is distinguished from Watanabe for the least the same reasons as discussed for claim 16 above. Particularly, claim 18 recites that the facing distance between the reagent retaining surface and the facing surface is no greater than 75 μm, which is even shorter than the facing distance of no greater than 150 μm recited in claim 16. The analyzing tool of claim 18 can enjoy the advantages of the short facing distance such as the shortened analysis time by colorimetry

even more than the tool of claim 16 (see Figs. 18C and 19C), and claim 18 is further distinguished from Watanabe. Accordingly, this rejection should be withdrawn.

Claim 4 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Watanabe et al. (Japanese Patent Application Publication No. 2002-333420) in view of Mochida et al. (U.S. Patent No. 5,147,607). Applicants respectfully traverse this rejection.

Claim 4 has been canceled, and the limitations of claim 4 have been included in claim 1.

Claim 1 recites that both of the first part and the second part of the reagent portion facing each other contain a color-developing reagent. Watanabe fails to disclose that the reagent portion includes the color-developing reagent. Watanabe discloses that by separating enzymes included in the enzyme-surfactant layer formed on a cover from the electron mediator included in a mediator-buffer layer formed on a base member, the biosensor provides a low blank value of measurement and excellent storage characteristics (see paras. [0070]-[0071] on page 5 and paras. [0077]-[0079] on pages 5-6 of the English equivalent). Accordingly, Watanabe teaches advantages of the layers formed on the cover member and formed on the base member that carry different reagent components from each other, and Watanabe fails to disclose that both of the first part and the second part of the reagent portion facing each other contain the same reagent component as claim 1 recites. Thus, Watanabe teaches away from the analyzing tool of claim 1.

Mochida fails to disclose that an analyzing tool includes the first part and the second part, which are formed in a reagent portion and are facing each other, and both of which contain the same color-development reagent as claim 1 recites. Accordingly, Mochida does not remedy the deficiencies of Watanabe, and this rejection should be withdrawn.

Application No. 10/553336
Responsive to the office action dated August 5, 2009

In view of the above, Applicants request reconsideration of the application in the form of a Notice of Allowance.

Respectfully submitted,

HAMRE, SCHUMANN, MUELLER & LARSON, P.C.
P.O. Box 2902
Minneapolis, MN 55402-0902
(612) 455-3800

Dated: February 5, 2010

By: _____
Douglas P. Mueller
Reg. No. 30,300

DPM/my/jls